

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

CAROLINE RILEY,

Plaintiff,

3:07-CV-0384
(TJM)(DEP)

v.

MARY FOLEY, State of New York Department of
Social Services,

Defendant.

APPEARANCES:

CAROLINE RILEY
Plaintiff, *pro se*

THOMAS J. McAVOY, SENIOR DISTRICT JUDGE

DECISION and ORDER

By prior Decision and Order of this Court, *pro se* plaintiff Caroline Riley was afforded the opportunity to file an amended complaint if she wished to avoid dismissal of this action. Dkt. No. 4.

By letter dated June 5, 2007, plaintiff has requested that this action be dismissed. Dkt. No. 5.

Rule 41(a)(1) of the Federal Rules of Civil Procedure provides in relevant part as follows:

[A]n action may be dismissed by the plaintiff without order of court (i) by filing a notice of dismissal at any time before service by the adverse party of an answer or of a motion for summary judgment, which ever first occurs,....

Plaintiff has not filed an amended complaint in accordance with the Court's prior Decision and Order and, accordingly, the defendant has not been served with process.

Plaintiff is therefore entitled to dismiss this action.

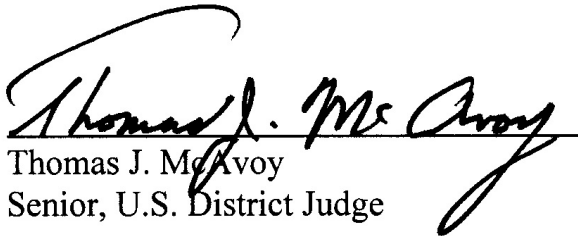
WHEREFORE, it is hereby

ORDERED, that this action is dismissed without prejudice pursuant to plaintiff's request (Dkt. No. 5), and it is further

ORDERED, that the Clerk serve a copy of this Order on plaintiff by regular mail.

IT IS SO ORDERED.

Dated: June 12, 2007


Thomas J. McAvoy
Senior, U.S. District Judge